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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,432	06/21/2001	Stephen L. Clark	4524A	8116

23466 7590 03/13/2002

FCI USA INC
INTELLECTUAL PROPERTY LAW DEPARTMENT
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EXAMINER

VU, HIEN D

ART UNIT	PAPER NUMBER
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2833

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/886432

Applicant(s)

Clark et al

Examiner

Hen 1/11

Group Art Unit

2833

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 8 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 55-57 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 55-57 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 55 and 56 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 55 and 58 of copending Application No. 09/886,550. Although the conflicting claims are not identical, they are not patentably distinct from each other because to form the pair of receptacle walls to be extended in a plane perpendicular to and intersecting the axis would have been an obvious matter choice of design.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claim 57 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 55 of copending Application No. 09/886,550. Although the conflicting claims are not identical, they are not patentably distinct from each other because to form the pair of receptacle walls extending in a plane without perpendicular to and intersecting the axis would have been obvious matter choice of design.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

5. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
6. Claims 55-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al (843).

The disclosure of Davis shows each and every element set forth in the claims. For example: Figs 9 and 11 show a receptacle housing 2, a conductive receptacle contact 6 with a pair of walls (not labeled), fig.3 shows a plug housing (2,7), a conductive plug 6 with a pair of spaced walls (not labeled) having plates 9, distal portions of the plates having projections forming a air gap. As to claim 58, the distal portions of the plates 9 could come into contact with each other.

Any inquiry concerning this communication should be directed to Hien Vu at telephone number (703) 308-2009.

Vu/ek

02/28/02


Hien Vu
Primary Examiner